

Honorable Michelle E. Heward – Juvenile Court Judge

Serving Davis, Weber and Morgan Counties



Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)

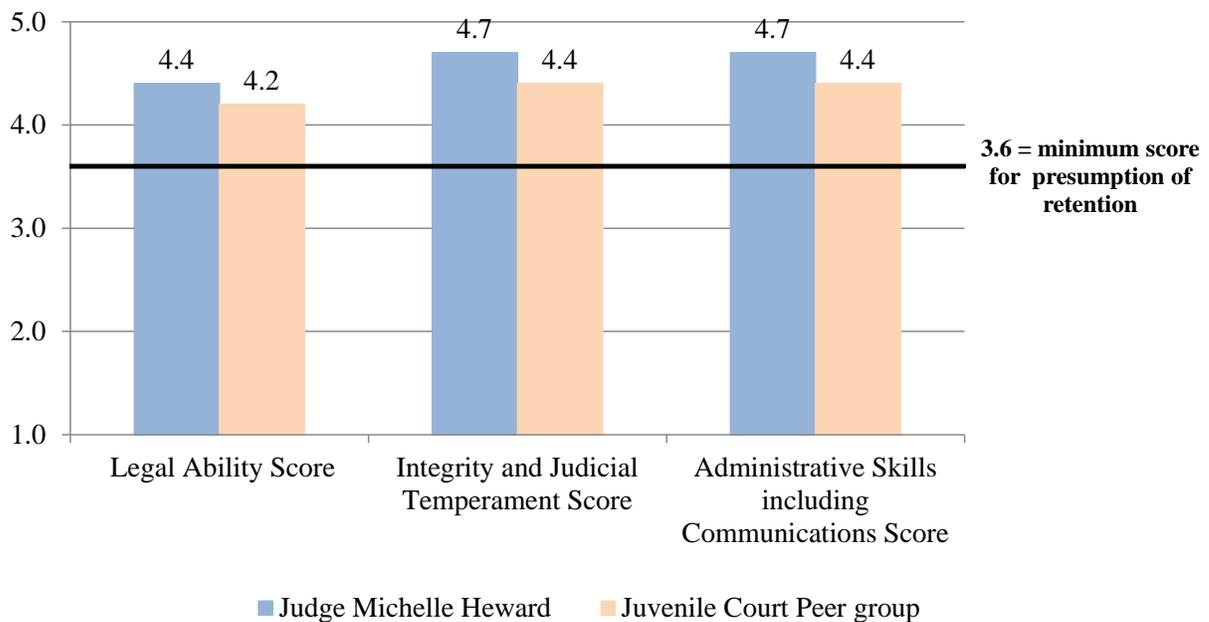
In her relatively short time on the bench, Judge Michelle Heward has built a reputation as an effective, fair, and consistent judge who is thoughtful both in her treatment of courtroom participants and in her rulings. Survey respondents most frequently described her as polite, considerate, knowledgeable, and attentive.

Courtroom observers praised her professionalism, her excellent judicial demeanor, and her skillful communication with courtroom participants. Although some survey respondents raised concerns over delays in her courtroom, they overwhelmingly supported her retention, with 97% of those who answered the retention question recommending that Judge Heward be retained.

The commission reviewed surveys and courtroom observation reports in addition to verifying that Judge Heward has met all time standards, judicial education requirements, and discipline standards established by the judicial branch.

Judge Michelle E. Heward was appointed to the Second District Juvenile Court by Gov. Gary Herbert in July, 2010. She presides over delinquency and child welfare cases primarily in Weber County, including an adult Family Drug Court. She earned her J.D. from the University of Utah in 1987 and a B.A. from Weber State University in 1982. Judge Heward started her legal career in private practice in Ogden, then worked as a deputy Weber County attorney. She subsequently taught criminal justice at Weber State as a full professor for 15 years. During a portion of that time, she also served as a justice court judge in Riverdale and South Ogden cities. Judge Heward is active on numerous boards and committees in the community.

This judge has met all minimum performance standards established by law.



The Honorable Michelle Heward

Judicial Performance Evaluation Commission Report

Retention 2014

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I. Survey Report

Survey Results

A. How to Read the Results

For Judge Michelle Heward, 56% of qualified survey respondents submitted surveys. Of those who responded, 91 agreed they had worked with Judge Michelle Heward enough to evaluate her performance. This report reflects the 91 responses. The survey results are divided into five sections:

- Statutory category scores
- Procedural fairness survey score
- Responses to individual survey questions
- Summary of adjectives
- Retention question

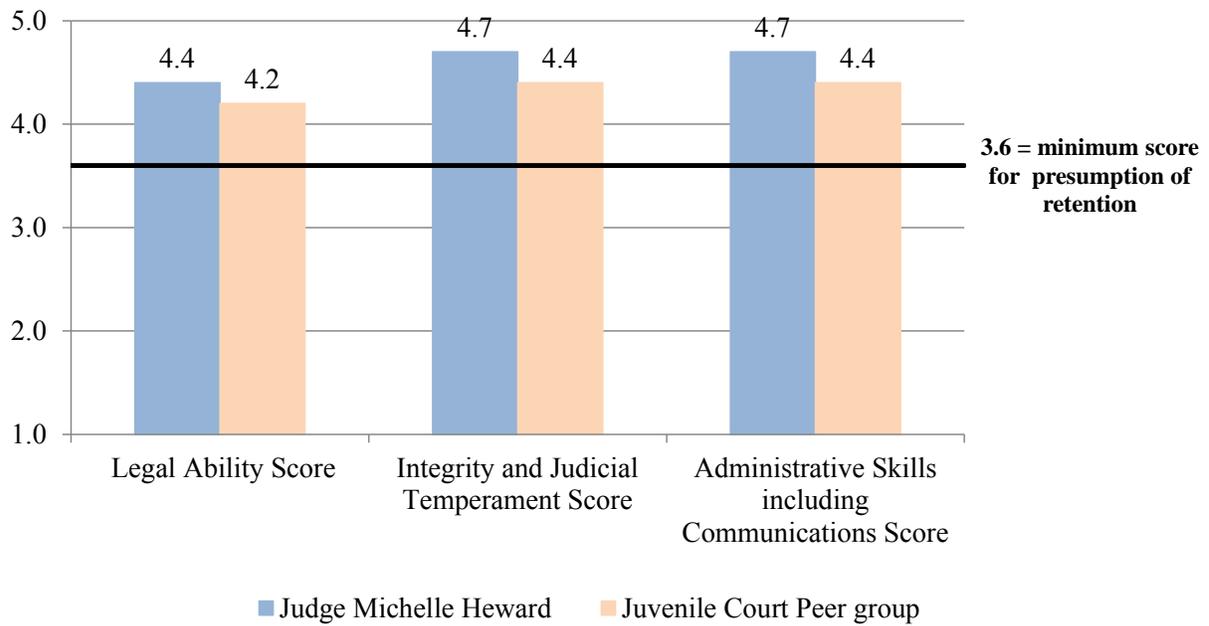
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "Juvenile Court" on the charts.

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (inadequate) to 5 (outstanding). Responses from all survey respondent groups contribute to the average score shown for each category, with the exception of Legal Ability. Only attorneys answer these questions.

What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to recommend retention unless it can articulate a substantial reason for overcoming the presumption in favor of retention. Similarly, if a judge fails to get a 3.6 in a category, the commission will vote against retention unless it can articulate a substantial reason for overcoming the presumption against retention.

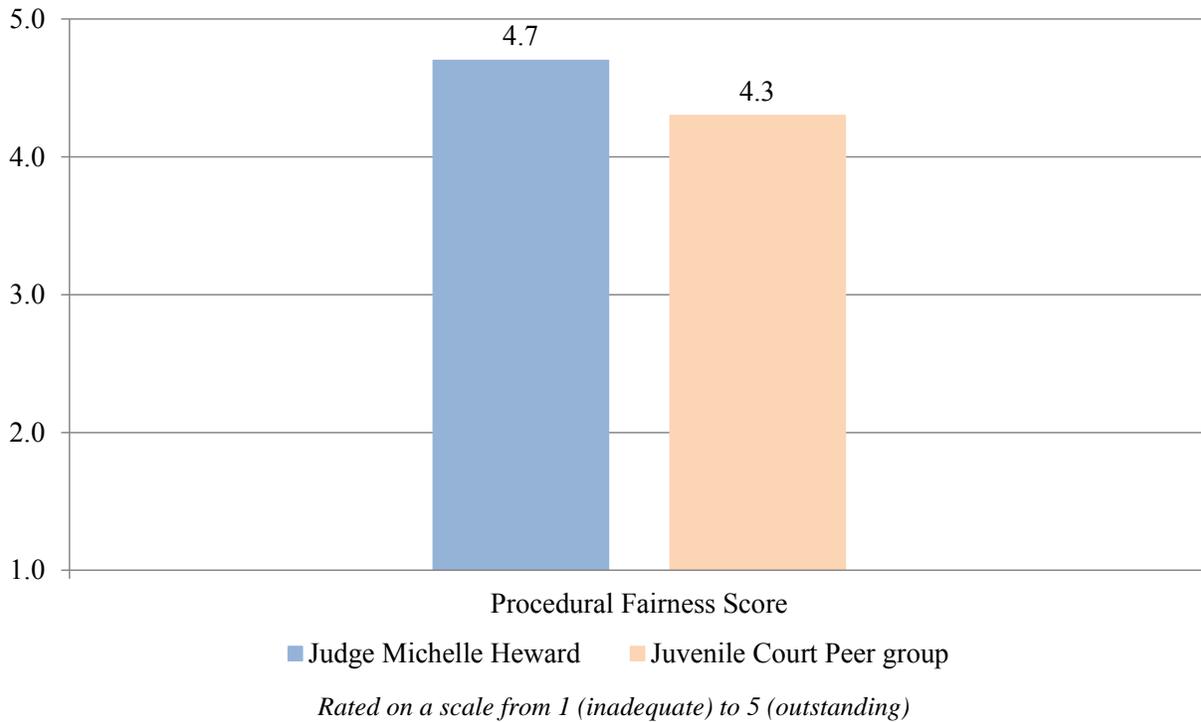
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, and this determination will be made by the commission only during the retention cycle.

B. Statutory Category Scores



Rated on a scale from 1 (inadequate) to 5 (outstanding)

C. Procedural Fairness Survey Score



For procedural fairness, the judge must demonstrate by a preponderance of the evidence that the judge’s conduct in court promotes procedural fairness for court participants. This determination is based on courtroom observations and relevant survey responses.

Overall Procedural Fairness Determination

Category	Judge Michelle Heward
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Michelle Heward	Juvenile Court
Legal Ability	The judge follows the applicable legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that apply to the case at issue.	4.4	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.4	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.4	4.2
Legal Ability	The judge only considers evidence in the record.	4.3	4.1
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.3	4.2
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.7	4.4
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.7	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.7	4.2
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.5	4.2
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.7	4.7

Rated on a scale from 1 (inadequate) to 5 (outstanding)

Category	Question	Judge Michelle Heward	Juvenile Court
Administrative Skills	The judge is prepared for court proceedings.	4.8	4.5
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.7	4.3
Administrative Skills	The judge is an effective manager.	4.6	4.3
Administrative Skills	The judge convenes court without undue delay.	4.4	4.2
Administrative Skills	The judge rules in a timely fashion.	4.7	4.5
Administrative Skills	The judge maintains diligent work habits.	4.7	4.5
Administrative Skills	The judge's oral communications are clear.	4.7	4.4
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.7	4.4
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.7	4.3
Procedural Fairness	The judge is fair and impartial.	4.7	4.2
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.2
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.7	4.4

Rated on a scale from 1 (inadequate) to 5 (outstanding)

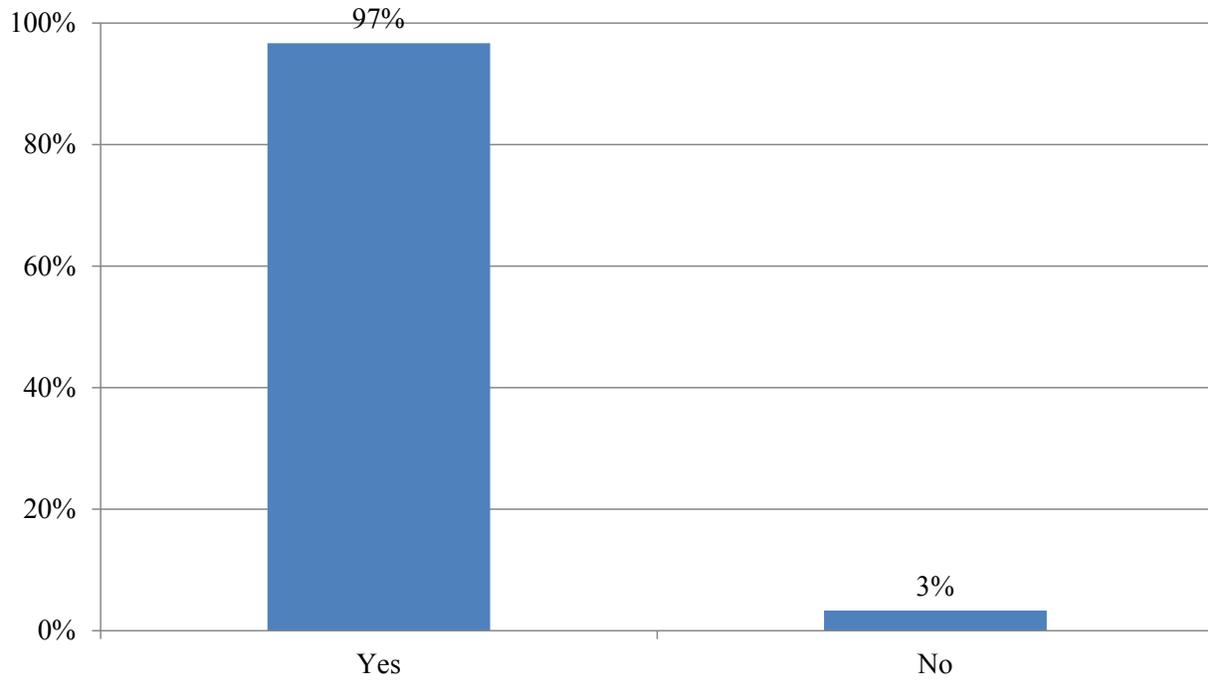
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	49
Calm	32
Confident	28
Considerate	51
Consistent	27
Intelligent	36
Knowledgeable	49
Patient	35
Polite	58
Receptive	31
Arrogant	2
Cantankerous	0
Defensive	1
Dismissive	3
Disrespectful	0
Flippant	0
Impatient	1
Indecisive	1
Rude	1
Total Positive Adjectives	396
Total Negative Adjectives	9
Percent of Positive Adjectives	98%

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

F. Retention Question

Would you recommend that Judge Michelle Heward be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	3%
Domestic	56%
Criminal	47%
Civil	28%
Other	34%

How many trials or hearings have you had with this judge over the past year?

5 or fewer	44%
6 - 10	29%
11 - 15	3%
16 - 20	6%
More than 20	18%

Survey Background and Methods

This report presents the results from the 2013 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

A. Survey Overview

1. Description of Sample

The following groups are invited to participate in the survey process:

- Attorneys with appearances before the judge
- Court staff who work with the judge
- Juvenile court professionals who work in the judge's courtroom on a regular and continuing basis to provide substantive input to the judge (juvenile court judges only)
- Jurors who participate in jury deliberation (district and justice court judges only)

With the exception of the attorney survey, the survey contractor attempts to survey all court staff and juvenile court professionals who work with judge and all jurors who reach the point of jury deliberation. The lists of court staff and juvenile court professionals are provided by the courts and by the Division of Child and Family Services and Juvenile Justice Services. A list of jurors is created after each trial. All lists are forwarded to the surveyor, Market Decisions, LLC.

For the attorney survey, a representative sample of attorneys is drawn to evaluate each judge based on appearances over a designated two-year period. The sample is weighted to select those with the greatest experience before the judge, assuming that these people will have a better knowledge base about the judge than those with less experience. Attorneys are first stratified into three groups; those with one or more trial appearances, those with 3 or more non-trial appearances, and those with 1-2 non-trial appearances. Attorneys within each sample are then randomized prior to selection. Selection begins with attorneys who have trial experience, then those with a greater number of non-trial appearances (if needed), and finally those with fewer non-trial appearances (if needed).

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, the survey is locked and cannot be accessed again.

The number of questions included in the survey varies, ranging from 9 (jurors) to 24 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

Responses to individual questions are used to calculate averaged scores in three statutory categories: Legal Ability, Integrity & Judicial Temperament, and Administrative Skills. Judges also receive an averaged score in Procedural Fairness.

B. Evaluation Period

The retention evaluation period for judges standing for election in 2014 began on June 1, 2012 and ended on June 30, 2013.

II. Courtroom Observation Report

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE MICHELLE HEWARD

Four observers wrote 89 codable units that were relevant to 14 of the 17 criteria. All observers reported that the judge was aware that JPEC observers were present.

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers were enthusiastically positive about Judge Heward.• All observers reported that Judge Heward listened attentively and was efficient and familiar with the details of cases. She apologized and explained the reasons for any delays, and she greeted, acknowledged, and spoke to each participant, especially children, with utmost respect, patience, compassion, and care. She was at all times positive and polite, even when firm, and one observer felt Judge Heward was tremendously well qualified and temperamentally suited to her position. Her demeanor was calm, reasonable, and dignified, with a pleasing mixture of casualness and professionalism. Observers particularly emphasized that Judge Heward was truly interested in obtaining the best possible outcomes for all parties, that she ensured that all participants were given adequate and unhurried time to share their thoughts and concerns, and that she listened carefully to and considered their responses. She consistently explained participants' rights and her decisions in language that was easy to understand, and she gave detailed explanations for the reasons for her decisions.• All observers reported that they would feel comfortable appearing before Judge Heward.
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• None
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• None

Summary and *exemplar language* of four observers' comments

RESPECTFUL BEHAVIORS

Listening & focus	Two observers reported that Judge Heward listened to all speakers in an <i>attentive and open manner</i> . Her ability to <i>listen to difficult situations dealing with fragile young children was remarkable</i> .
Well-prepared & efficient	All observers reported that Judge Heward was <i>familiar</i> with the <i>details</i> of each case and <i>rarely looked at her computer notes</i> . The organization of court was <i>efficient, smooth, and impressive, with cases filed in one after another in an orderly fashion</i> .
Respect for others' time	One observer reported that when <i>cases required more time than anticipated</i> , Judge Heward <i>apologized to participants who were called later than scheduled</i> . When a case was <i>temporarily postponed because the parties had not received needed documents</i> , she <i>explained the situation to all in the court</i> .
Respectful behavior generally	All observers reported that Judge Heward treated all participants with the utmost respect, and they especially appreciated how <i>patiently and carefully she spoke to children</i> . She was <i>careful to recognize each person</i> , saying for example, <i>"Nice to see you this morning."</i> She <i>asked everyone to identify themselves and always thanked everyone</i> . She <i>greeted each child</i> appearing with parents, telling them that <i>she was glad that they could come to court</i> , and she <i>acknowledged a grandmother who was sitting in the audience and specifically thanked her for the effort she had exhibited in caring for the survival of her son and grandchild</i> .

Respectful behavior generally continued	<p>She had <i>so many positive things</i> to say to the young people appearing before her that one observer <i>hoped they can recall those words and feel good about themselves in the future</i>. The children in one case <i>felt important when the judge spoke to them directly</i> and when she offered them each a treat from the basket of treats, and <i>they smiled and thanked her politely</i>. One observer felt that the respectful, attentive manner with which Judge Heward treated each professional team member was <i>responsible for those team members responding with their most confident insights</i>.</p> <p>Judge Heward treated a <i>belligerent and resentful father</i> with respect and consideration and gave him adequate time to speak. While he left still looking belligerent, the observer felt <i>there was nothing further the judge could have done to change that</i>.</p>
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RESPECTFUL TONE

Courtesy, politeness and patience	<p>Three observers reported that Judge Heward was always <i>polite</i> and put participants <i>at ease</i>. She was polite to an <i>inexperienced probation officer</i>, saying with a <i>gentle voice and a smile</i>, “<i>It’s okay, I just want you to know what information is helpful to me.</i>” She put children at ease in a <i>situation that could be frightening</i> by asking in a <i>kind and unhurried manner if she could speak to the adults privately as she excused them from the room</i>.</p>
Courtroom tone & atmosphere	<p>All observers reported that Judge Heward is <i>tremendously qualified and temperamentally well suited</i> to her position. She <i>radiated compassion</i> for children, and her <i>behavior, calm demeanor, and concern for the outcome of the hearings were admirable and exemplary</i>. She was <i>consistent and clear, reasonable, respectful, caring, and dignified</i>, but also <i>firm, judicial, and stern</i> when necessary, a <i>pleasing mixture of casualness and professionalism</i>, for example when saying respectfully, “<i>I am extremely concerned with the lack of progress in this case.</i>” She was able to get her sometimes <i>very firm messages across while maintaining her pleasant voice and face</i>, and she showed she was <i>definitely in charge with no mistaking that she meant business</i>. She could <i>chastise parents and yet keep her demeanor controlled</i>, allowing her to get her message delivered effectively. In one case she <i>remained respectful when sternly warning parents who were claiming they had no resources for bus fare to come to court that they needed to be more proactive and responsible if they wanted their child back</i>. There was a <i>minimum of chatter</i> or other distractions in the well-ordered courtroom.</p>
Body language	<p>Three observers reported that Judge Heward maintained <i>appropriate posture and good eye contact</i>, looked at each person <i>addressing her and when she addressed them</i>, and showed that she was <i>giving her full attention in an open and concerned manner</i>.</p>
Voice quality	<p>One observer reported that Judge Heward’s voice was <i>pleasant and neutral</i> throughout.</p>

NEUTRALITY

Consistent and equal treatment	<p>Three observers reported that Judge Heward was <i>truly consistent and impartial, consistently treating all participants equally</i>, regardless of the <i>particulars of the cases or the status of those before her</i>.</p>
Acts with concern for individual needs	<p>All observers reported that Judge Heward was <i>truly interested in obtaining a solution</i> to the issues so that all parties were <i>getting the best possible outcome</i>, including family members, but especially the children. In one case she <i>weighed the benefits to the children for a transfer of custody of children from their parents to an adopting family, and determined that it was best for all parties</i>. She showed an <i>awareness of the circumstances and challenges that were affecting the young people and made every effort to help them make restitution without creating a burden that would result in total discouragement, a difficult balancing act which she carried off well</i>. With young mothers she <i>connected education to the ability to care for their children and have success in the world</i>. She also <i>offered incentives</i>, such as a reduction of fines in return for certain behaviors or as a reward for successes, saying for example, “<i>I’ll give you \$100 credit on your fine if you bring up your GPA by one point. I want you to prioritize.</i>”</p>

VOICE

Considered voice	All observers reported that Judge Heward <i>ensured that all parties were given adequate and unhurried time to share their thoughts and concerns</i> , for example asking, “ <i>Do you have anything else, sir?</i> ” She <i>sought the advise of counsel</i> before making <i>clear, specific rulings</i> and asked all team members present for their opinion, <i>listening carefully</i> and <i>considering</i> what was said. She was <i>skilled</i> at the difficult task of giving <i>voice to a child</i> . She <i>greeted each child with a kind, gentle voice</i> , asking, “ <i>How are things going?</i> ” and further questions like, “ <i>What do you like to do?</i> ” or, “ <i>What are you doing this summer?</i> ” and then <i>listened to their responses</i> . In one case she explained she could not <i>mediate between two feuding parents</i> , but <i>assured them that she had heard their concerns and that the issues they had raised would be dealt with in a timely manner</i> .
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Heward <i>consistently explained rights, consequences, and her decisions in clear language that was easy to understand</i> .
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Ensures information understood	One observer reported that Judge Heward <i>made sure litigants understood the benefits of a trial, and if they were sure about making a choice to not have a trial that it was their own informed decision</i> .
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Provides adequate explanations	Two observers reported that Judge Heward seemed to <i>fit the punishment to the offense</i> and always gave <i>detailed and clear explanations for the reasons for her decisions</i> . She was <i>careful to explain and define rights, procedures and terms for each person</i> .
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